

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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United States of America, )  
 ) File No. 17-CR-64  
 ) (DWF/KMM)  
Plaintiff, )  
 )  
vs. ) St. Paul, Minnesota  
 ) January 23, 2020  
Edward S. Adams, ) 11:03 a.m.  
 )  
Defendant. )  
-----

BEFORE THE HONORABLE DONOVAN W. FRANK  
UNITED STATES DISTRICT COURT JUDGE  
**(SENTENCING HEARING)**

APPEARANCES

For the Plaintiff: United States Attorney's Office  
Joseph Thompson, AUSA  
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Minneapolis, Minnesota 55415

For the Defendant: Williams & Connolly, LLP  
Joseph Petrosinelli, ESQ.  
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transcript produced by computer.

1                                   P R O C E E D I N G S

2                                   IN OPEN COURT

3                   (Defendant present. )

4                   THE COURT: The Court would call United States  
5                   versus Edward Scott Adams.

6                   Note for the record that the matter is before the  
7                   Court today for sentencing.

8                   Before we -- before we begin, why don't we have  
9                   introductions of Counsel. We can start on my right,  
10                  Counsel's left and then move over to Defense Counsel.

11                  MR. THOMPSON: Good morning, Your Honor.

12                  Joe Thompson on behalf of the United States.

13                  MR. PETROSINELLI: Your Honor, good morning.  
14                  Joseph Petrosinelli on behalf of Mr. Adams.

15                  And, of course, Mr. Adams is here with me, and his  
16                  wife, Denise Adams is here as well.

17                  MS. ADAMS: Good morning, Your Honor.

18                  THE COURT: The Court would suggest that we follow  
19                  in the -- that we proceed as follows, just not unique to  
20                  this case, but I'll discuss it with -- so Counsel's aware of  
21                  it.

22                  I'll first verify with Counsel that there's no  
23                  dispute with respect to the applicable guidelines in the  
24                  case, based upon the plea to the -- to the misdemeanor  
25                  offense that was done before this Court.

1           And then once I announce that, which I don't  
2     believe there's a dispute on, then I'll hear from Defense  
3     Counsel with respect to what you believe is a fair sentence,  
4     consistent with the case before the Court, including the  
5     Plea Agreement.

6           Then at that time, Mr. Adams, as you're probably  
7     aware, you'll have a right to speak or not to speak. Some  
8     Defendants talk at these sentencings, some don't.

9           The only rule that doesn't vary from one case to  
10    the next is a Judge can never use it in a negative way if a  
11    Defendant chooses not to add anything to what their lawyer  
12    or lawyers have said in the case.

13          Then I would hear from the Prosecution, subject to  
14    any response or rebuttal from Defense Counsel before I would  
15    then announce the sentence in the case.

16          If we proceed in that order of events, is that  
17    acceptable to the Government?

18                 MR. THOMPSON: Yes, Your Honor. Thank you.

19                 THE COURT: To the Defense?

20                 MR. PETROSINELLI: Yes, Your Honor.

21                 THE COURT: A couple of things that I'll first  
22    indicate to the parties.

23                 I also -- so I acknowledge sentencing memorandums  
24    from both the -- from both Defense Counsel and the  
25    Government.

1           Secondly, I acknowledge receipt of two letters  
2       both from the father-in-law and the spouse of the Defendant.

3           And then thirdly the -- as the parties are aware,  
4       the -- as part of the Plea Agreement, the 17 felony counts  
5       are being dismissed by the Government in exchange for the  
6       plea that was made to the misdemeanor offense in here.

7           And so I wanted to acknowledge, as was referenced  
8       in the Presentence Report, that I received 27 letters from  
9       alleged victims on the 17 counts that are being dismissed,  
10      which for the record so it's clear, that the Court -- it's  
11      not proper for the Court then to consider that information,  
12      because it relates -- it's unrelated to the misdemeanor that  
13      was pled to, and relates to the alleged conduct in the  
14      original 17 counts, superseding indictment that's being  
15      dismissed. And so the -- the Court acknowledges it has read  
16      all 27 letters that -- well, actually from 32 people,  
17      because there were some couples who sent them in, but  
18      they're not deemed victims with restitution issues on the  
19      case before the Court that remains.

20           So as the Court respectfully stated, I cannot be  
21      and will not be considering that, even though it does  
22      acknowledge it's -- as I've told Counsel, I've read  
23      everything that came in.

24           So unless Counsel has any questions of me about  
25      that we can -- we can proceed.

1           Currently, based upon the adjusted offense level  
2           of IV and a Criminal History Category, the lowest category  
3           of I, pursuant to the misdemeanor plea for rule for failure  
4           to provide information or pay tax, a misdemeanor under  
5           federal law, that creates a potential sentence as zero to  
6           one year, with the guideline -- advisory guidelines being  
7           zero months to six months.

8           A supervised release period of no more than a  
9           year. A probationary period of zero to five years. A fine  
10          of \$250 to \$5,000. And a special assessment of \$25 for the  
11          victims fund, that's mandatory in every misdemeanor case.

12          Those are the computations the Court currently  
13          has.

14          Any -- does that square with the Government?

15          MR. THOMPSON: It does, Your Honor. Thank you.

16          THE COURT: With Defense?

17          MR. PETROSINELLI: Yes, Your Honor.

18          THE COURT: Then with that in mind I'll -- we can  
19          proceed with the argument by Defense Counsel. And please  
20          take -- come to the podium.

21          MR. PETROSINELLI: Thank you, Your Honor.

22          Joseph Petrosinelli, again, for Mr. Adams.

23          Your Honor, I'll be relatively brief here.

24          As you know, a part of the Plea Agreement the  
25          parties agree here that the appropriate sentence for this

1 offense, this misdemeanor offense, should be probation. And  
2 we would ask the Court to impose that sentence for the  
3 reasons laid out in our memorandum.

4 I know Your Honor -- I know Your Honor's read our  
5 memorandum, so I'm not going to repeat those arguments.

6 But on that basis and part of the Plea Agreement,  
7 we'd ask the Court to impose a probationary sentence.

8 Now in terms of the term of probation, we'd ask  
9 the Court to consider six months.

10 And I ask the Court for that for this reason. Mr.  
11 Adams, as I think Your Honor knows, this case has been  
12 pending for about three years. The original indictment was  
13 -- was in March of 2017. And so Mr. Adams had been subject  
14 to pretrial supervision and all the attendant restrictions  
15 with which he has fully complied for three years already.

16 And given that as Your Honor sees in the -- given  
17 that as Your Honor sees in the Presentence Report, Mr. Adams  
18 has a stable family life, he works at the University,  
19 there's nothing about his circumstances that would suggest  
20 the need for a lengthy probation period.

21 And so I think given the three years that the case  
22 has been pending under which he's been under supervision or  
23 pretrial services, with which he's complied, and given his  
24 circumstances, we'd ask for a six-month probationary  
25 sentence.

1           The other thing, Your Honor, is -- I think you saw  
2       this in our memorandum, we'd also ask that no fine be  
3       imposed as indicated in both the Plea Agreement and in the  
4       Presentence Report. Mr. Adams paid taxes owed on the tax  
5       years in question some years ago now, actually.

6           THE COURT: And actually to the extent it's  
7       relevant, that was \$117,829 paid November of 2014, which  
8       actually proceeded the -- the 17-count indictment. But the  
9       -- and that was for the tax years 2008, 2009, 2010, added  
10      up?

11          MR. PETROSINELLI: That's correct, Your Honor.

12          THE COURT: All right.

13          MR. PETROSINELLI: And so given that five years  
14      ago now, or five-plus years ago now, Mr. Adams paid the  
15      taxes owed, and had an agreement with the IRS with respect  
16      to those taxes and any other issues, and I'm not aware of  
17      any outstanding issues, we think that there's no -- for this  
18      misdemeanor, there's no fine that the Court should impose,  
19      or that would be warranted.

20          Your Honor, I think that's it for me. It's pretty  
21      straightforward as laid out in my memorandum.

22          Two things I'll finish with, one, I just want to  
23      thank Mr. Thompson. I think that Your Honor knows that he  
24      came into this case quite late and brought a fresh  
25      perspective to it. And I just want to thank him for his

1 professionalism in connection with the matter.

2 And finally thank the probation officer for a  
3 detailed and carefully done report as evidenced by the fact  
4 that neither side had any objections to it, not a single  
5 one.

6 Your Honor, Mr. Adams' misdemeanor offense here is  
7 I think quite clearly an aberration and an otherwise  
8 unblemished 56 years of personal and professional history  
9 and for that reason we ask the Court to impose the sentence  
10 that I just requested.

11 THE COURT: Do you know if your client wishes to  
12 address the Court?

13 MR. PETROSINELLI: Yes, Your Honor, he does,  
14 briefly.

15 THE COURT: If you want to have him come up with  
16 you to the podium?

17 MR. PETROSINELLI: Yes. Please.

18 THE COURT: As you probably heard me say, sir,  
19 you're free to make any statements. You're also free not  
20 to. You're free to make any statements you wish.

21 THE DEFENDANT: Thank you, Your Honor. I  
22 appreciate it.

23 Your Honor, good morning. I'm very sorry for what  
24 happened here. I accept responsibility for the actions that  
25 led to the situation and I promise you that I will never



1 find myself in this situation again.

2 Thank you for your consideration, Your Honor.

3 THE COURT: Thank you.

4 And that will be subject to rebuttal, if you want.

5 I'll hear from Government's Counsel.

6 MR. THOMPSON: Thank you, Your Honor.

7 Your Honor, it's true that almost five years ago  
8 Mr. Adams entered into the voluntary disclosure program with  
9 the IRS. He paid approximately \$117,000 in taxes that he  
10 owed for the tax years 2008, 2009, and 2010 and he did so  
11 voluntarily.

12 In accordance with the Plea Agreement and the  
13 sentencing papers that I know Your Honor has reviewed, the  
14 Government would ask for a sentence of one year probation.  
15 Thank you.

16 THE COURT: Anything further by Defense Counsel?

17 MR. PETROSINELLI: No, Your Honor. Thank you.

18 THE COURT: Okay.

19 You can remain seated. I'll respond briefly to  
20 what's been said and I'll again repeat, again, not unique to  
21 this case, both parties have submitted -- have submitted  
22 written memorandums to the Court that the Court had a chance  
23 to review beforehand.

24 Well, first of all, the -- the Court will indicate  
25 for the record, not to insult the intelligence of the

1 lawyers or other people in the room that the -- in addition  
2 to the Plea Agreement, and the fact there's a plea to a  
3 misdemeanor the -- and, of course, the Court is obligated to  
4 then -- is not allowed to consider any of the alleged  
5 conduct with respect to the now will be dismissal of the  
6 17-count indictment. The -- as the lawyers and everyone,  
7 most everybody in the room may know, the definition of a  
8 fair sentence is what is that sentence that will promote  
9 respect for the law, sufficient but not greater than  
10 necessary to do that, will not create any unwarranted  
11 sentencing disparities. And Counsel have both addressed  
12 that saying, well, this is -- for this type of charge, this  
13 is a consistent with the majority of cases.

14 Probably the only thing that's not consistent is  
15 that the -- the unpaid taxes were paid in advance almost  
16 five years ago now.

17 And then the 'D' word, deterrence. What is that  
18 sentence that will promote -- it's really more related to  
19 promote -- promoting respect for the law, speaking in plain  
20 language and not any other language.

21 So the Court has had a chance to carefully look at  
22 these issues. And the -- the one thing that the Court has  
23 looked at and was glad, Mr. Adams, you made the statement  
24 that you just did is obviously it's common knowledge, and  
25 it's all over the files, that you're a tenured law professor

1 at the University of Minnesota Law School and in high  
2 regard.

3 And for the Court in this position -- your  
4 position as a law professor with a reputation, one, informs  
5 me that you clearly knew more than most that what you were  
6 doing was illegal and unethical, and so -- when usually  
7 hopefully law professors, and lawyers and judges are setting  
8 examples for other individuals, whether they're law  
9 students, young lawyers, older lawyers, and maybe other  
10 people in the community, and so I have to balance all of  
11 that.

12 And I believe probably we have experienced lawyers  
13 on both sides, I believe, as they have and they've -- when  
14 they've structured a Plea Agreement that they have, and so  
15 what I'll be doing is a couple of things.

16 I'll be, in addition to the -- both parties have  
17 made reasonable arguments with respect to the straight  
18 probation sentence.

19 I'll be placing you on -- and I'll explain why in  
20 a moment, two years of probation without any custody. And  
21 I'll get to that issue and that was part of the Plea  
22 Agreement, too, both parties were representing no custody.  
23 And I don't claim I'm obligated to follow that, but I  
24 believe it would be -- meet the definition of a fair  
25 sentence provided that with the two years probation without

1 a promise to me, irrespective once I impose a couple other  
2 conditions in addition to the standard conditions, it  
3 wouldn't be unusual for the Court to, if I received an  
4 application a year from now where you were 100 percent  
5 compliant with all the conditions and everything was going  
6 well, and had -- had completed, which I'll get to two  
7 additional conditions, would be -- would not be unusual in a  
8 case to terminate you early from probation. It's not a  
9 guarantee it happens, but any check of any our record would  
10 indicate that that would be the case.

11 What I will be doing, and I'd note respectfully of  
12 objection of your Counsel, I'll be imposing a -- and it's  
13 the least important thing of one other specific condition,  
14 the \$5,000 fine to be paid at the rate of \$200 per month,  
15 starting the first day in February.

16 And then, obviously, if that's -- that there will  
17 be an issue if there's a request for early termination of  
18 probation a year from now if, well, it's I have this yet to  
19 pay, or, no, I've paid it all, you can pay anything sooner  
20 or if you take the position that \$200 is more or too much to  
21 pay our financial people will evaluate that, but I believe  
22 that will -- that creates a fair balance with respect to --  
23 and it's not only fair, but not that the Government asked  
24 for it, but then it's consistent not inconsistent with the  
25 Plea Agreement, although your attorney asked for no fine.

1           And then more important to the Court, in the end,  
2       acknowledging your background and how you're viewed in the  
3       community in the context of what you pled guilty to, I'm  
4       going to order 200 hours of community service work to be  
5       done with VLN, also known as Volunteer Lawyers Network,  
6       and/or SMRLS, otherwise known as Southern Minnesota Regional  
7       Legal Services, on a schedule that is consistent with your  
8       schedule and on a schedule to be worked out -- probation  
9       will work with you.

10           And then in 9 out of 10 cases there's never an  
11       issue because we can work those things out and -- with those  
12       two specific organizations.

13           And so that can be done on some schedule that  
14       doesn't compromise what other issues or other things that  
15       you were doing. And then I won't go through the other  
16       standard conditions of probation because I'll announce those  
17       in just a few moments.

18           And I believe if I take that approach, one, and I  
19       find the Plea Agreement -- based upon what's been pled to,  
20       then I believe that I carry out my function in imposing a  
21       fair sentence based upon the plea of guilty to this  
22       misdemeanor charge. And I'm confident the schedule can be  
23       worked out that's compatible on those issues.

24           And with that, Counsel, if you and Mr. Adams would  
25       come to the podium, please.

1           What I'll do is I'll formally announce the  
2       sentence and then I'll stop and ask for any clarification or  
3       requests from respective Counsel.

4           As the sentence of the law and judgment of this  
5       Court I place you on probation at this time for two years,  
6       understanding the comments that I've made about whether I'll  
7       review it in a year from now.

8           I impose a fine of \$5,000 to be paid at the rate  
9       of \$200 per month. It can be paid more than that if you  
10      want or if there's a request for less beginning on or about  
11      February 1st of 2020.

12          More importantly to me, frankly, on a schedule to  
13      be worked out with the probation department, approximately  
14      200 hours of community service work, and specifically  
15      identifying with VLN here in Minnesota Volunteer Lawyers  
16      Network and SMRLS, because so, so many people are going  
17      without advice or access.

18          And I don't believe it will conflict at all with  
19      some of the other work you're doing with your legal aide  
20      clinic and bankruptcy at the University of Minnesota Law  
21      School that's been done in the past and other organizations  
22      you've worked with.

23          There are no restitution issues because the only  
24      thing in front of me, and that's all been paid through this  
25      closing -- voluntary closing agreement in 2014 of the

1       \$117,000.

2               So if there are any other issues, that's between  
3       you and the IRS. And they've -- consistent with other  
4       cases, they don't contact the Court and say, here's any  
5       remaining issues. And so we're assuming -- and Counsel, I  
6       think, shares the same views on both sides if there aren't  
7       any issues, and if there are that's with the Internal  
8       Revenue Service.

9               Moving on to the what are commonly called, as  
10       you're probably aware, standard conditions:

11              You shall not commit any crimes, be it federal,  
12       state, or local.

13              One, you shall cooperate, as every federal --  
14       federal defendant has since October of 2004, in a DNA sample  
15       for criminal identification purposes.

16              And then something we haven't discussed, and I  
17       acknowledge I haven't discussed with Counsel, I came into  
18       the courtroom intending to suspend -- which isn't, again,  
19       unique to this case, if I see no identifiable issues of  
20       alcohol, or drugs or mental health issues.

21              I suspect the drug testing requirement, as the  
22       lawyers know, maybe you know, too, obviously if something  
23       would evolve while you're on probation I have the right to  
24       reinstitute it. But I came in thinking that I would be  
25       suspending drug testing since there's been no issues prior

1 to or since you've been on release.

2 Any objection to that by Government's Counsel?

3 MR. THOMPSON: No, Your Honor.

4 THE COURT: And I doubt that Defense will have an  
5 objection.

6 MR. PETROSINELLI: No, Your Honor.

7 THE COURT: All right. Then moving on -- and some  
8 of these are standard conditions:

9 You shall not own, possess, or have access to  
10 firearm, ammunition, destructive device or any other  
11 dangerous weapon as part of your probation.

12 And something it's a standard condition in a case  
13 like this, while you're on probation, you shall provide, if  
14 requested by the probation officer, access to any requested  
15 financial information, including credit reports, credit card  
16 bills, bank statements, telephone bills.

17 And then they don't monitor your financial  
18 circumstances in terms of incurring new purchases, credit --  
19 credit -- opening new accounts, bank accounts, or credit  
20 cards, but you have to so inform the probation officer so  
21 they can say, yes, we understand.

22 And then there's a \$25 special assessment for the  
23 Crime Victims Fund. I'll direct that that be paid on or  
24 before February 1st, as well.

25 There -- there's been a waiver of appeal in this



1 case as part of the Plea Agreement. However, if you feel I  
2 have violated the law or imposed a sentence contrary to law  
3 then notice of appeal must be filed within 14 days after I  
4 file the -- what's called the sentencing judgment, which  
5 your lawyer gets a copy of, prosecution, probation, and the  
6 Court.

7 And then I believe before I ask if there's any  
8 other questions, I believe, what, you're moving to dismiss  
9 the 17-count superseding indictment?

10 MR. THOMPSON: Yes. That's correct, Your Honor.

11 THE COURT: Those pursuant to the Plea Agreement  
12 are hereby dismissed.

13 Any questions for clarification or anything else  
14 by Defense Counsel?

15 MR. PETROSINELLI: No, Your Honor.

16 THE COURT: Any questions, Mr. Adams, that you  
17 have for the Court?

18 THE DEFENDANT: No, Your Honor.

19 THE COURT: Mr. --

20 MR. THOMPSON: No, Your Honor. Thank you.

21 THE COURT: And then -- I know what you're -- I  
22 know she got up to remind me of something, so, as she does  
23 in every case. Thank you.

24 But before I go to what I know she got up for, the  
25 probation officer, you'll probably want to meet briefly with

1 Mr. Adams before he leaves?

2 MS. KRIER: Yes, Your Honor.

3 THE COURT: All right. The -- again, not unique  
4 to this case, and I know that's why typically with respect  
5 to any letters that come in from family members and friends,  
6 or other people, we seal those for at least ten years.

7 Sealing means, of course, that you and your lawyer  
8 have access, Mr. Thompson does, probation and the Court but  
9 the public can't go in because there may be personal things  
10 or identifiers, and typically we would seal those for ten  
11 years unless we're asked to have a longer time or shorter  
12 time. Mr. Petrosinelli?

13 MR. PETROSINELLI: I'd like to seal those for ten  
14 years, Your Honor.

15 THE COURT: All right. Mr. Thompson?

16 MR. THOMPSON: No objection, Your Honor.

17 THE COURT: I'm going to ask probation, anything  
18 else that you wanted to -- hopefully the Court was going to  
19 hear?

20 MS. KRIER: No, Your Honor.

21 THE COURT: Anything else? Anything else by  
22 Defense Counsel?

23 MR. PETROSINELLI: No, Your Honor. Thank you.

24 THE COURT: By Prosecution?

25 MR. THOMPSON: No, Your Honor. Thank you.

1 THE COURT: Then I'm sure for people here,  
2 regardless of what capacity you appear, respective Counsel  
3 for either side can answer any questions that you may have.

4 And then probation will want to meet with you, Mr.  
5 Adams, before you leave and can answer any other questions  
6 you have. So we are in recess and we are adjourned.

7 (Court adjourned at 11:28 a.m.)

8 **REPORTER'S CERTIFICATE**

9  
10 I, Lynne M. Krenz, do certify the foregoing  
11 pages of typewritten material constitute a full, true and  
12 correct transcript of my original stenograph notes, as they  
purport to contain, of the proceedings reported by me at the  
time and place hereinbefore mentioned.

13 /s/Lynne M. Krenz  
14 Lynne M. Krenz, RMR, CRR, CRC

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